

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 14,422

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Appeal of )

)

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare denying his application for Food Stamps based upon excess income.

FINDINGS OF FACT

1. The petitioner is a single person who has a gross monthly income of \$1,530.35. This income is derived from a retirement pension which the petitioner claims was paid to him as a result of a forced retirement based on injuries he suffered as a law enforcement officer in New Jersey. However, the petitioner presented no documentary evidence of his disability and no finding can be made that he is actually disabled.
2. The petitioner applied for Food Stamps in June of 1996, and was sent a written notice on June 24, 1996, that he had been found ineligible for those benefits because his income is more than the Department allows for a household of his size.
3. The petitioner appeals that denial because he believes the Department should have assessed his eligibility based on the income he has left after he pays his other bills. He provided information showing that after his taxes he netted only \$14,500 per year and that his necessary expenses (taxes, insurance, transportation, heating, bankruptcy payments, utilities, medical, clothing) reduce his income available for food to only \$3,784.82 per year. His estimated yearly expense for food was \$7,300 which he pointed out is \$3,515.18 less than income he had available for that purpose.

ORDER

The decision of the Department is affirmed.

REASONS

The Food Stamp regulations limit eligibility as follows:

Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program . . . The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)).

F.S.M. § 273.9(a)

The regulations specifically include retirement pensions as countable unearned income for purposes of the Food Stamp program. F.S.M. § 273.9(b)(2). Thus the entire amount of the petitioner's gross income from his retirement pension must be counted in order to determine whether the petitioner is eligible since he has not proven that he is disabled. The gross income standard under Federal income poverty levels for a one person household is \$810 per month. P-2590(C)(1). As the petitioner's gross income is more than \$700 higher than that figure, he was properly denied.

The petitioner should be aware that net figures are used for persons who can show that they are disabled. Under the regulations, the Department can allow a disabled person deductions for certain excess medical, shelter and other expenses before determining eligibility for the program. F.S.M. § 273.9(d). If his net income is then \$1,028 or lower, he can be found eligible for Food Stamps. P-2590. If the petitioner has some proof of his disability, he is urged to reapply for a new assessment of his eligibility under that program.

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